

Re-visiting Charter of Medina: In the Light of Quran, Sunnah, and Fundamental law of Pakistan

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Abstract

This research paper undertakes a comparative study of the Quran, Sunnah, the Charter of Medina, and the Constitution of Pakistan, 1973. The Charter of Medina, a constitutional document, bears significant similarities to the 1973 Constitution of Pakistan, particularly in the context of the Quran and Sunnah. Both documents emphasize the protection of women's rights, social and cultural rights, freedom of religion, and the rights of minorities within the state. The Charter of Medina envisions a state of peace and security, free from all forms of violence. It is considered the first written democratic constitution in human history and served as a model for subsequent constitutions. Its principles are grounded in the Quran and Sunnah. Originally, the Charter of Medina was compiled into 47 articles in 1986. More recently, its 63 articles have been organized according to the structure of contemporary legal constitutions. This study includes an objective analysis comparing the Constitution of Pakistan, 1973, and the Constitution of Medina within the framework of the Quran and Sunnah.

Keywords: Quran, Sunnah, Charter of Medina, Legal Constitution, human rights.

Introduction

Throughout history, humans have developed many doctrines and documents to ensure the rule of law and individual rights. As social beings, we need each other and therefore need a system of duties and rights to live in peace. To achieve this societies have always established rules and laws. One of the most famous and important constitutions in Islamic history is the Charter of Medina. Written by the Prophet Muhammad in the 7th century the Charter of Medina is a pioneering

document that established the framework for governance in the city of Medina. It's known for its progressive approach to social justice, community cohesion, and religious freedom. The Charter protected various groups in society including women and minorities and emphasized mutual respect and cooperation between different tribes and religious communities.¹

The Charter of Medina is considered the first written democratic constitution in human history and a model for future constitutions because of its inclusive and forward-thinking provisions. It established the foundation for a peaceful and secure state free from violence by promoting unity and equality. The principles in the Charter are deeply rooted in the Quran and Sunnah and are the core of Islamic governance and jurisprudence. The Charter of Medina is a historic document showing the relevance of Islamic legal and ethical principles in building just and peaceful societies.²

Charter Of Medina

The Charter of Medina introduced the foundational concepts of governance that ultimately laid the groundwork for democracy in Medinan society. It established a stable and moderate environment for all residents and is recognized as the first written constitution in history. This charter unified people of various cultures and religions into one nation, introducing the concept of the Rule of Law and the importance of respecting the customs of different racial and religious backgrounds to coexist peacefully. The Charter guaranteed religious freedom and the rights of minorities, as well as the preservation of women's rights, human rights, and social and cultural rights. It explicitly made Medina a secure and peaceful state. The first Islamic constitution, established by Prophet Muhammad (SAW), is the earliest democratic constitution in human history and the most significant political charter. It served as the basis for subsequent constitutions, deriving its rules and principles from the Quran and Sunnah. Initially composed of 47 Articles in 1986, it has since been categorized according to modern legal constitutional documents, now comprising 63 Articles.

The Charter granted minorities protection of life and property and allowed their participation in all matters as equals to Muslims, although non-Muslims were not given the means

¹ A. J. Wensinck, *Muhammad and the Jews of Medina: With an Excursus Muhammad's Constitution of Medina* by Julius Wellhausen (1975), 77.

² Giancarlo Anello, "The Concept of 'Contractual Citizenship' in the Charter of Medina (622 C.e.): A Contemporary Interpretation," *SSRN Electronic Journal*, 2021, 30, doi:10.2139/ssrn.3784632.

to govern Muslims or make policies for them. The Medina Charter is notable not only for being the first written constitution but also for its modern and inclusive nature, enunciating and promulgating equal rights for every citizen and allowing them a voice in governmental affairs. It provided a well-established federal framework with centralized power while granting many tribes sovereignty over social, cultural, and religious issues, forming a single nation.³

The Charter established that despite granting autonomy to various units, matters of state security and national defense were centralized (Clause 17, 36(a), and 47).⁴ Provisions were made for federal subjects (Clauses 13, 15, 17, and 44), and in cases of disputes between units, the matter would be brought before Prophet Muhammad (SAW) for a final decision (Clauses 23 and 41). The Charter fostered nationalism, or more accurately, a form of patriotism appreciated by Islam. The Quranic verse quoted in this context emphasizes unity and righteousness: "O people, We created you from the same male and female and rendered you into distinct peoples and tribes that you may recognize one another. The best of you in the sight of Allah is the most righteous." (Quran 49:13). The Charter guaranteed equality and protection from injustice (Clause 16), declared all believers and followers as brothers, and granted the right and assistance to defend anyone unless they were an enemy (Clause 15).

It provided support for members in debt or financial hardship regarding ransom or blood money (Clause 12) and prohibited offering assistance or safety to a killer (Clause 22). Clause 25 granted significant human rights by ensuring the freedom and liberty of the community to practice its religion, implying that every individual has the freedom to make their own choices as given in the teachings of the Quran. Clause 37(a) highlighted the importance of public consultation in statecraft. Unlike contemporary democratic systems, where the people's voice is of utmost importance, the Charter emphasized the necessity of aligning with truth and justice. It also explicitly refused to tolerate any form of injustice or wrongdoing (Clause 47).

The Constitution represents Prophet Muhammad's effort to craft a governing framework during his administration of Medina. At that time, he relied on traditions and precedents, as the complete Quran had not yet been revealed. All constitutions are provisional, needing adjustments

³ Wensinck, *Muhammad and the Jews of Medina: With an Excursus Muhammad's Constitution of Medina*, 20.

to suit evolving times.⁵ Arab tribal influences are evident in Clauses 25 and 36(b), which prescribe punishment for a member and their family due to the member's crime, contradicting another clause (146) that states only the wrongdoer is punishable for their crimes. Fundamental principles guiding Islamic society include justice, brotherhood, unity among believers, cooperation among citizens, religious freedom, adherence to agreements, collaborative efforts for good, prevention of evil, and the promotion of high moral conduct, with the constitution serving as a governing method.

The Charter, the inaugural Islamic political and constitutional document, was granted to the people of Medina in the names of both Prophet Muhammad (Clause 1) and Allah, emphasizing two distinct expressions of the ultimate source of power. This dual phrasing highlights the elevated principles of good and right reason represented by Prophet Muhammad and Allah, differing from the Western Middle Ages, where the Church wielded authority in the name of Allah. Clause 47 places Allah's name before Muhammad's, presenting Allah as the embodiment of the highest good and the foremost principle of right reason, essential for guiding humanity toward continuous moral and intellectual progress.⁶

Constitution Of Pakistan

The Islamic Republic places Divine sovereignty at its core, with Almighty Allah as the ultimate source of legislative power. Following the time of Muhammad (Peace be Upon Him), no individual or group can claim executive authority without the endorsement of the Muslim community through direct or indirect elections. Pakistan's Constitution designates Islam as the state religion and aligns laws with Quranic Injunctions and Sunnah. The Constitution asserts Almighty Allah's sovereignty while emphasizing democratic principles, equality, and justice. It explicitly mandates equal treatment of minorities, safeguarding their rights, protecting their places of worship, and ensuring freedom of religion. This research contends that the 1973 Constitution of the Islamic Republic of Pakistan harmonizes with the Quran, Sunnah, and the Constitution of Medina, fostering a society where citizens, regardless of religion, enjoy equal rights.⁷

⁵ Rooby P. Mulyo, "MEDINA CHARTER: RELIGIOUS AND STATE MISSIONS," *Oasis : Jurnal Ilmiah Kajian Islam* 7, no. 2 (2023): 100, doi:10.24235/oasis.v7i2.12809.

⁶ Nazri Muslim, "Principle of Responsibility in the Medina Charter to Build Cooperative Relations of the Cross-Cultural Community," *Islamiyyat* 45, no. 1 (2023): 177, doi:10.17576/islamiyyat-2023-4501-15.

⁷ Nazri Muslim, "Principle of Responsibility in the Medina Charter," 175.

Analysis Of Provisions Of The Charter Of Medina In The Light Of The Quran, Sunnah, And Constitution Of The Islamic Republic Of Pakistan, 1973

The inaugural Islamic political-constitutional document, known as the Charter of Medina, was granted to the people of Medina under the authority of both Prophet Muhammad and Allah, as stated in Clause 1. This dual invocation of authority highlights the combined spiritual and temporal governance established by the Charter.⁸

Sovereignty

Analysis

The Quran, Sunnah, the Constitution of Medina, and the 1973 Constitution of the Islamic Republic of Pakistan all assert Allah as the Sovereign Lord, Creator, and Supreme Lawgiver. Islam is declared the state religion, and laws must align with Quranic Injunctions and Sunnah.⁹ The Constitution asserts that sovereignty is solely vested in Almighty Allah, with the people's authority serving as a sacred trust within defined boundaries. It mandates the full observance of Islamic principles of democracy, freedom, equality, tolerance, and social justice. The Ummah, representing the collective holder of divine authority, wields limited power under the guidance of the Quran and Sunnah. Shura, a vital mechanism, enables the Ummah to formulate rules for the welfare of society within the framework of Shariah objectives, adhering to the belief that actions collectively approved by Muslims are pleasing to Allah.¹⁰ Shura ensures that the benefits of Divine commandments are implemented and adapted to meet the needs of an evolving human society.¹¹

The Holy Quran Provides a complete and detailed guideline for a Peaceful and just society, a proper way of life, and an equitable and Fair economic system.¹² Its focus stresses honesty, forgiveness, and generosity and sets strict punishments for offences like theft, Murder Zina, etc. Islam is the complete code of life for all humanity. Islam is a religion for all humanity.

⁸ Charter of Medina. Art. 1.

⁹ ALI, BAYAT, and GHADRIYEH TAJ, BAKHSH, "AUTHENTICITY OF THE CONSTITUTION OF MEDINA." (2007): 95: (June 2020): <https://www.sid.ir/en/journal/ViewPaper.aspx?id=105023>.

¹⁰ Watt, Montgomery, "Muhammad at Medina," (Oxford: 2004): 222.

¹¹ Sharif, al Mujahid, "Note Introduction to Communication Research: The First Basic Steps," *Pakistan Perspective* 24, no. 2 (2019). (Accessed June 2020): <https://journal.psc.edu.pk/index.php/pp/article/view/374>.

¹² Essam S, Ayyad, "The Holy City of Medina: Sacred Space in Early Islamic Arabia By Harry Munt." (2016): 39-41: (June 2020): <https://academic.oup.com/jis/article-abstract/27/1/39/2458808>.

Teaching Of The Qur'an And The Sunnah

Analysis

According to the Holy Quran, Sunnah, the Charter of Medina, and the 1973 Constitution of Pakistan, the Quran stands as the primary and paramount source of belief and faith for every Muslim. It not only reveals insights about Allah but also provides comprehensive guidance for living a fulfilling life. The central theme of the Quran focuses on the relationship between Allah and humanity, covering aspects like worship, wisdom, interpersonal relations, transactions, and laws.¹³

Blood Money

Analysis

According to the Quran, Sunnah, and the Charter of Medina, in cases of murder, the relatives of the victim are entitled to Qisas or Diyat. However, the Constitution of Pakistan guarantees the protection of life for every citizen and ensures that no one will be deprived of their rights.¹⁴ Minorities are granted protection of life and property, and they are equally allowed to participate in economic transactions.¹⁵ Therefore, it is evident that the constitution of Pakistan, like the Quran, Sunnah, and the Constitution of Medina, ensures equal treatment of all citizens.¹⁶

Rule Of Law

Analysis

As per the Quran, Sunnah, the Constitution of Medina, and Pakistan's 1973 Constitution, all citizens are to be treated equally. Islam emphasizes equality among people before the law and regulations in both constitutions. An essential component of the rule of law is granting citizens the freedom of expression. Discrimination based on race, sex, or religion is prohibited, and no arbitrary actions can be taken against any individual. Courts are established to ensure the proper enforcement of the law. The rule of law underscores equal access to justice and a political process

¹³ Watt, Montgomery w, " Muhammad at Medina," 22238.

¹⁴ Hashim, Al-Mallah, "The Constitution of Al-Medina." (1974):(June 2020):

<http://yarab.yabesh.ir/yarab/handle/yad/75070>.

¹⁵ Sharif ,al Mujahid, , "Note Introduction to Communication Research: The First Basic Steps," *Pakistan Perspective* 24, no. 2 (2019).(Accessed June 2020): <https://journal.psc.edu.pk/index.php/pp/article/view/374>.

¹⁶ Hashim, Al-Mallah, "The Constitution of Al-Medina." (1974):(June 2020):

<http://yarab.yabesh.ir/yarab/handle/yad/75070>.

that ensures laws are implemented and enforced fairly and accessibly to all.¹⁷ If this principle is not upheld, the government must be held accountable. Both constitutions guarantee that all members of society, regardless of gender, wealth status, or creed, have the right to sue and defend themselves in court, and to be treated equally and fairly. Additionally, every citizen has the right to participate in politics. Thus, both constitutions adhere to the principle of impartiality.¹⁸

Protection Of Minorities, Religious Freedom & Equality Of Justice

Analysis

Islam grants complete freedom to minorities to practice their religion. It strictly prohibits any methods that would coerce or influence their religious independence. While Islam enjoins worship of Almighty Allah, it does not compel followers of other religions to convert to Islam forcefully. Islam emphasizes that the state should treat minorities equally and provide them with opportunities accordingly.¹⁹ The verses and traditions of the Holy Prophet ensure a society where all citizens, regardless of their religion, receive equal rights. Both constitutions protect minorities in every aspect of life and grant them equal status. Minorities also have specific rights for the protection of their religion and culture. They have the complete freedom to worship and practice their religion of choice. The state is obligated to safeguard their places of worship and protect them from all forms of oppression and violence.²⁰

Protection Of Life

Analysis

The Quran, Sunnah, and both constitutions protect the lives of all human beings, prohibiting killing and ensuring liberty for every individual.²¹

¹⁷ Recep, Şentürk, "The 'Constitution of Medina': Muhammad's First Legal Document BY MICHAEL LECKER," (2008): 251-253.(June 2020): <https://academic.oup.com/jis/article-abstract/19/2/251/671860>.

¹⁸ Hannah, Rahman, "The Conflicts between the Prophet and the Opposition in Medina," *Der Islam; Zeitschrift für Geschichte und Kultur des Islamischen Orients* 62 (1985): 260.(June 2020): <https://search.proquest.com/openview/9301a0be13b4323f967e1220d60b2630/1?pq-origsite=gscholar&cbl=1816825>.

¹⁹ Sharif ,al Mujahid, , "Note Introduction to Communication Research: The First Basic Steps," *Pakistan Perspective* 24, no. 2 (2019).(Accessed June 2020): <https://journal.psc.edu.pk/index.php/pp/article/view/374>.

²⁰ Akira, Goto, "Al-Medina at the Time of Muhammad's Coming," *Orient* 20 (1984): 33-41:(June 2020): https://www.jstage.jst.go.jp/article/orient1960/20/0/20_0_33/article/-char/ja/.

²¹ Rahman, Farhat Naz, Kiran Sami, and Ms Fehmida Memon, "Medina charter and just peacemaking theory," *The Government-Annual Research Journal of Political Science*. 4, no. 4 (2015):((Accessed June 2020): <http://sujo-old.usindh.edu.pk/index.php/THE-GOVERNMENT/article/view/1617>.

Democracy

Analysis

Shura (Parliament) plays a crucial role in the Islamic political system by enabling widespread participation in decision-making processes. It fosters a society where ordinary people actively engage and collaborate with leaders. Consultation between leaders and the populace ensures a strong relationship, preventing the leader from straying into authoritarianism and promoting accountability.²² The concept of democracy is rooted in the Quran and Sunnah, where consultation (Shura) was employed to resolve disputes. Democracy is considered an integral aspect of justice within the Islamic faith, emphasizing Allah's wisdom in guiding mankind's governance. However, in modern societies governed by the people, political power often rests with the head of state and their aides, sometimes marginalizing ordinary citizens' voices in political affairs.

According to the Constitution of Pakistan, there is a democratic system where people participate in elections through elected representatives and exercise authority. Citizens retain the right to directly or indirectly exercise authority through proposing laws, referendums, and objections. Additionally, modern democratic systems include concepts of local government where ordinary people participate in various roles. Thus, it is evident that both the Quran and Sunnah, as well as the Constitution of Pakistan, uphold principles of democracy, consultation, and freedom of expression.

State Of Peace And Security

Analysis

The Quran, Sunnah, and both constitutions offer a profound sense of tranquility and peace when individuals adhere to their Creator's commands. This inner peace extends to families, communities, societies, and the global community. It is a unique peace derived from a sincere belief in Allah. For the people of Pakistan to progress and attain a just and honorable position

²² Rahman, Farhat Naz, Kiran Sami, and Ms Fehmida Memon. "Medina charter and just peacemaking theory." *The Government-Annual Research Journal of Political Science*. 4, no. 4 (2015):((Accessed June 2020): <http://sujo-old.usindh.edu.pk/index.php/THE-GOVERNMENT/article/view/1617>.

among the world's nations, and to actively contribute to global peace, advancement, and human well-being, this sense of peace and adherence to divine guidance is crucial.²³

Administration Of Justice And Law Of Retaliation

Analysis

According to the Constitution of Pakistan, discrimination based on sex and gender is prohibited, ensuring equal treatment for all citizens, regardless of whether they are Muslims or non-Muslims. The concept of equal rights and obligations is universally applied in all aspects of governance and societal interaction.²⁴ The Constitution of Pakistan, 1973 explicitly states that no law shall be enacted that is inconsistent with the injunctions of the Quran and Sunnah. According to the Quran, Sunnah, and the Constitution of Medina, if someone unlawfully takes a life, justice demands that Qisas (retribution) be executed fairly. However, the 1973 Pakistani Constitution primarily focuses on safeguarding life, personal security, and ensuring justice, without explicit mention of Qisas beyond these foundational principles. The Constitution guarantees the right of individuals to be treated in accordance with the law.²⁵

Abrogation Of The Constitution

Analysis

It is evident from the Quran, Sunnah, and both constitutions that anyone who abrogates, subverts, or conspires against the state or its constitution will face punishment and will not be protected under any law.²⁶

²³ Shakeel Ahmed, Qureshi, and Lodhi, Muhammad Idrees "Holy Prophet (PBUH) as a Preceptor for All Times," *Dialogue (Pakistan)* 6, no. 4 (2011): (June 2020):
http://www.qurtuba.edu.pk/thedialogue/The%20Dialogue/6_4/Dialogue_October_December2011_300-318.pdf.

²⁴ Moazzam, Ali, and Ahmad, Shabbir, "THE CONCEPT OF RELIGIOUS PLURALISM IN THE LIGHT OF QURAN & SUNNAH," (June 2020): <https://ziaetaahqeeq.gcu.edu.pk/ZTQ/Split%20Vol-8,%20Issue%2016/24.%20THE%20CONCEPT%20OF%20RELIGIOUS%20PLURALISM%20IN%20THE%20LIGHT%20OF%20QURAN%20&%20SUNNAH.pdf>.

²⁵ Shakeel Ahmed, Qureshi, and Lodhi, Muhammad Idrees "Holy Prophet (PBUH) as a Preceptor for All Times," *Dialogue (Pakistan)* 6, no. 4 (2011): (June 2020):
http://www.qurtuba.edu.pk/thedialogue/The%20Dialogue/6_4/Dialogue_October_December2011_300-318.pdf.

²⁶ Imtiyaz, Yusuf, "Islamic theology of religious pluralism: Qur'an's attitude towards other religions," *Prajñā Vihāra* 11, no. 1 (2010): (June 2020):
<http://www.assumptionjournal.au.edu/index.php/PrajnaVihara/article/view/1301>.

Relation Of Muslim States With Muslim & Non-Muslim States/ Foreign Relations With Peace Treaty

Analysis

Promises and agreements must be upheld, as emphasized in various passages of the Qur'an and Sunnah. Similarly, both constitutions stipulate that agreements or peace treaties made by Muslims or the state must not be violated. Therefore, the Quran, Sunnah, and both constitutions promote the concept of fostering amicable relations among all nations and encourage the peaceful resolution of international issues.²⁷

Equality Before Law

Analysis

The Quran, Sunnah, and both constitutions affirm that the status of men and women, whether Muslim or not, is equal, and they are equally obligated to be sincere and honest with the state. The Quran explicitly mandates fair treatment of minorities by the state, ensuring that they are granted fundamental rights and specific protections to safeguard their faith and culture. Minorities are free to openly practice any religion or creed of their choice and are guaranteed protection from all forms of hostility and violence. The teachings of the Prophet and the commands of the Quran establish a society where every citizen, regardless of their religious affiliation, enjoys equal rights and protections under the law.

War Expenses

Analysis

According to the Constitution of Medina, both minorities and believers were equally liable to contribute towards war expenses, which supported the financial needs of the state during times of conflict. However, in the 1973 Constitution of Pakistan, while provisions exist to promote economic stability and financial support in various ways, there is no specific clause regarding the imposition of war expenses on minorities in case of conflict.²⁸

²⁷ Muhammad Aslam ,Syed, "The idea of the Islamic state," *East-West Connections* 7, no. 1 (2007): 24:(June 2020): <https://www.questia.com/library/journal/1G1-186951065/the-idea-of-the-islamic-state>

²⁸ Bouziane, Mounira, and Fatima Ghennam. "Comparison between the constitution of Medina and the constitution of the United States." (2014).(June 2020): <http://bib.univ-oeb.dz:8080/jspui/handle/123456789/2559>.

The Constitution of Pakistan explicitly prohibits discrimination based on sex and gender, ensuring that all citizens, whether Muslims or non-Muslims, are treated equally in all aspects. Additionally, the 1973 Constitution mandates that no law shall contradict the teachings of the Quran and Sunnah, and any law found inconsistent with these principles is declared null and void.

Conclusion

The comparative analysis of the Medina Charter, Quran, Sunnah, and the Constitution of Pakistan reveals their harmony and mutual reinforcement as they share the Quran and Sunnah as foundational sources. The Medina Charter stands as a pioneering and enduring constitution in history, laying the groundwork for a just and well-organized society. It encompasses fundamental principles such as the rule of law, equality, justice, protection of minorities, and democracy, which are essential for societal prosperity and cohesion.

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